

House File 495 - Introduced

HOUSE FILE 495
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 28)

A BILL FOR

1 An Act relating to the residential landlord and tenant laws and
2 making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 535.2, subsection 7, Code 2013, is
2 amended to read as follows:

3 7. This section does not apply to a charge imposed for late
4 payment of rent. ~~However, in the case of a residential lease,~~
5 ~~a late payment fee shall not exceed ten dollars a day or forty~~
6 ~~dollars per month.~~

7 Sec. 2. Section 562A.6, Code 2013, is amended by adding the
8 following new subsections:

9 NEW SUBSECTION. 7A. "*Presumption*" means that the trier of
10 fact must find the existence of the fact presumed unless and
11 until evidence is introduced which would support a finding of
12 its nonexistence.

13 NEW SUBSECTION. 11A. "*Resident*" means an occupant of a
14 dwelling unit who is at least eighteen years of age.

15 Sec. 3. Section 562A.9, Code 2013, is amended by adding the
16 following new subsection:

17 NEW SUBSECTION. 3A. For rental agreements in which the
18 rent does not exceed six hundred dollars per month, a rental
19 agreement shall not provide for a late fee that exceeds twelve
20 dollars per day or a total amount of sixty dollars per month.
21 For rental agreements in which the rent is six hundred dollars
22 or greater per month, a rental agreement shall not provide for
23 a late fee that exceeds a total amount equal to ten percent of
24 the monthly rent.

25 Sec. 4. Section 562A.17, subsection 6, Code 2013, is amended
26 to read as follows:

27 6. Not deliberately or negligently destroy, deface,
28 damage, impair or remove a part of the premises or knowingly
29 permit a person to do so. If damage, defacement, alteration,
30 or destruction of property by the tenant is intentional,
31 the tenant may be criminally charged with criminal mischief
32 pursuant to chapter 716.

33 Sec. 5. Section 562A.30, Code 2013, is amended to read as
34 follows:

35 **562A.30 Waiver of landlord's right to terminate.**

1 1. Acceptance of performance by the tenant that varies
2 from the terms of the rental agreement or rules subsequently
3 adopted by the landlord constitutes a waiver of the landlord's
4 right to terminate the rental agreement for that breach, ~~unless~~
5 ~~otherwise agreed after the breach has occurred.~~

6 2. Nothing in this section shall prohibit a landlord from
7 granting a waiver for a term of days, provided the landlord
8 gives notice of the breach and temporary waiver to a tenant
9 consistent with section 562A.8 prior to a tenant acting or
10 failing to act in reliance on the grant of a temporary waiver.

11 Sec. 6. Section 562A.36, subsection 2, Code 2013, is amended
12 to read as follows:

13 2. If the landlord acts in violation of subsection 1 of
14 this section, the tenant may recover from the landlord the
15 actual damages sustained by the tenant and reasonable attorney
16 fees, and has a defense in action against the landlord for
17 possession. In an action by or against the tenant, evidence
18 of a ~~good-faith~~ good-faith complaint within one year prior to
19 the alleged act of retaliation creates a presumption that the
20 landlord's conduct was in retaliation. The presumption does
21 not arise if the tenant made the complaint after notice of a
22 proposed rent increase or diminution of services. Evidence
23 by the landlord that legitimate costs and charges of owning,
24 maintaining or operating a dwelling unit have increased shall
25 be a defense against the presumption of retaliation when a
26 rent increase is commensurate with the increase in costs and
27 charges. ~~"Presumption" means that the trier of fact must find~~
28 ~~the existence of the fact presumed unless and until evidence is~~
29 ~~introduced which would support a finding of its nonexistence.~~

30 EXPLANATION

31 This bill makes changes to the residential landlord and
32 tenant laws in Code chapter 562A.

33 The bill strikes language regarding maximum fees for late
34 payment of rent in Code section 535.2, and the substance of
35 the provision is transferred to Code section 562A.9, except

1 that the bill increases the maximum payment that may be imposed
2 for late payment of rent from \$10 a day or \$40 per month to an
3 amount not to exceed \$12 per day or a total amount equal to \$60
4 per month for rental agreements in which monthly rent does not
5 exceed \$600. For rental agreements in which monthly rent is at
6 or above \$600, the maximum payment that may be imposed for late
7 payment of rent may not exceed an amount equal to 10 percent of
8 the monthly rent.

9 The bill amends Code section 562A.6 regarding general
10 definitions for Code chapter 562A. The bill strikes language in
11 Code section 562A.36, concerning the meaning of "presumption",
12 and transfers the substance of the provision to Code section
13 562A.6. The bill defines "resident" as an occupant of a
14 dwelling unit who is at least 18 years of age.

15 The bill adds that a tenant who intentionally destroys or
16 damages a premises may face criminal charges pursuant to Code
17 chapter 716, regarding damage to property.

18 The bill amends the provision relating to waiver of a
19 landlord's right to terminate a rental agreement to provide
20 that a landlord may grant a waiver for a term of days if the
21 landlord gives the tenant notice of the breach and temporary
22 waiver prior to the tenant acting or failing to act in reliance
23 on the temporary waiver.